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19 *Attorneys for Plaintiffs and the Proposed Class*

20 **UNITED STATES DISTRICT COURT**
21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 LIDIA RIOTT, on behalf of herself, all
23 others similarly situated and the general
24 public,

25 Case No.: **'13CV0147 AJB KSC**

26 **CLASS ACTION**

27 Plaintiff,
28 v.
29 Worldwide Commerce Associates, LLC
30 a Nevada Corporation,

31 **COMPLAINT FOR DAMAGES**
32 **AND INJUNCTIVE RELIEF**
33 **PURSUANT TO THE TELEPHONE**
34 **CONSUMER PROTECTION ACT,**
35 **47 U.S.C. §§ 227 et seq.**

36 Defendant.

37 **DEMAND FOR JURY TRIAL**

INTRODUCTION

1. Lidia Riott (“Plaintiff”) brings this Class Action Complaint for
damages, injunctive relief, and any other available legal or equitable remedies,
resulting from the illegal actions of Worldwide Commerce Associates, LLC
 (“Defendant” or “WCA”), in negligently, and /or willfully contacting Plaintiff
through telephone calls on Plaintiff’s cellular telephone, in violation of the
Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby
invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge
as to her own acts and experiences, and, as to all other matters, upon information
and belief, including investigation conducted by her attorneys.

JURISDICTION AND VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff
seeks up to \$1,500 in damages for each call in violation of the TCPA, which, when
aggregated among a proposed class number in the tens of thousands, exceeds the
\$5,000,000 threshold for federal court jurisdiction. Further, Plaintiff alleges a
national class, which will result in at least one class member belonging to a
different state than that of Defendant, providing jurisdiction under 28 U.S.C.
Section 1332(d)(2)(A). Therefore, both elements of diversity jurisdiction under the
Class Action Fairness Act of 2005 (“CAFA”) are present, and this Court has
jurisdiction.

3. Venue is proper in the United States District Court for the Southern
District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because
Defendant, a Nevada corporation, is, and at all times herein mentioned, was doing
business in the County of San Diego, State of California.

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PARTIES

4. Plaintiff Lidia Riott is, and at all times mentioned herein was, a citizen and resident of the State of California. She is, and at all times mentioned herein was a “person” as defined by 47 U.S.C. § 153 (32).

5. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times mentioned herein was, a Nevada corporation, and a "person," as defined by 47 U.S.C. § 153 (32).

6. On information and belief, Defendant, a Nevada corporation which does business in California, markets consumer goods, services and promotional offers, and has its principal place of business is 3651 Lindell Road, Suite D, Las Vegas, NV 89103.

7. Plaintiff alleges that at all times relevant herein Defendant conducted business in the state of California and in the County of San Diego, and within this judicial district.

FACTUAL ALLEGATIONS

8. Commencing approximately January of 2012, through the present, Plaintiff Lidia Riott received a number of unsolicited phone calls to her wireless phone, for which Plaintiff provided no consent to call, requesting Plaintiff Lidia Riott to purchase various vacation packages.

9. Plaintiff Lidia Riott has attempted to unsubscribe to Defendant's network, however continues to receive a number of unsolicited phone calls.

10. These unsolicited phone calls placed to Plaintiff's wireless telephone was placed via an "automatic telephone dialing system," ("ATDS") or an artificial or pre-recorded voice system, as defined by 47 U.S.C. § 227 (a)(1) as prohibited by 47 U.S.C. § 227 (b)(1)(A) which had the capacity to produce or store and dial numbers randomly or sequentially, to place telephone calls and / or SMS or text messages to Plaintiff's cellular telephone.

11. The telephone number that the Defendant, or its agents, called was assigned to a cellular telephone service for which Plaintiffs incurred a charge for incoming calls pursuant to 47 U.S.C. § 227 (b)(1).

12. Plaintiff did not provide Defendant or its agents prior express consent to receive unsolicited phone calls pursuant to 47 U.S.C. § 227 (b)(1)(A).

13. These phone calls by Defendant or its agents violated 47 U.S.C. § 227(b)(1).

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action on behalf of herself and on behalf of and all others similarly situated (“the Class”).

15. Plaintiff represents, and is a member of the Class, consisting of all persons within the United States who receive any unsolicited telephone calls from Defendant or its agents on their paging service, cellular phone service, mobile radio service, radio common carrier service, or other service for which they were charged for the call, through the use of any automatic telephone dialing system or artificial or pre-recorded voice system as set forth in 47 U.S.C. Section 227(B)(1)(A)(3) or artificial or prerecorded voice, which telephone call by Defendant or its agents was not made for emergency purposes or with the recipients' prior express consent, within the four years prior to the filing of this Complaint.

16. Defendant and its employees or agents are excluded from the Class. Plaintiff does not know the number of members in the Class, but believes the Class members number in the hundreds of thousands, if not more. Thus, this matter should be certified as a Class action to assist in the expeditious litigation of this matter.

17. Plaintiff and members of the Class were harmed by the acts of Defendant in at least the following ways: Defendant, either directly or through its

1 agents, illegally contacted Plaintiff and the Class members via their cellular
2 telephones by using unsolicited telephone calls, thereby causing Plaintiff and the
3 Class members to incur certain cellular telephone charges or reduce cellular
4 telephone time for which Plaintiff and the Class members previously paid, and
5 invading the privacy of said Plaintiff and the Class members. Plaintiff and the
6 Class members were damaged thereby.

7 18. This suit seeks only damages and injunctive relief for recovery of
8 economic injury on behalf of the Class and it expressly is not intended to request
9 any recovery for personal injury and claims related thereto. Plaintiff reserves the
10 right to expand the Class definition to seek recovery on behalf of additional
11 persons as warranted as facts are learned in further investigation and discovery.

12 19. The joinder of the Class members is impractical and the disposition of
13 their claims in the Class action will provide substantial benefits both to the parties
14 and to the court. The Class can be identified through Defendant's records or
15 Defendant's agents' records.

16 20. There is a well-defined community of interest in the questions of law
17 and fact involved affecting the parties to be represented. The questions of law and
18 fact to the Class predominate over questions which may affect individual Class
19 members, including the following:

20 a. Whether, within the four years prior to the filing of this Complaint,
21 Defendant or its agents placed telephone calls without the recipients'
22 prior express consent (other than a telephone call made for
23 emergency purposes or made with the prior express consent of the
24 called party) to a Class member using any automatic telephone
25 dialing system or an artificial or pre-recorded voice system, to any
26 telephone number assigned to a cellular telephone service;

1 b. Whether Plaintiff and the Class members were damaged thereby,
2 and the extent of damages for such violation; and
3 c. Whether Defendant and its agents should be enjoined from engaging
4 in such conduct in the future.

5 21. As a person that received at least one unsolicited telephone call to her
6 cell phone without Plaintiff's prior express contest, Plaintiff is asserting claims that
7 are typical of the Class. Plaintiff will fairly and adequately represent and protect
8 the interests of the Class in that Plaintiff has no interest antagonistic to any
9 member of the Class.

10 22. Plaintiff and the members of the Class have all suffered irreparable
11 harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class
12 action, the Class will continue to face the potential for irreparable harm. In
13 addition, these violations of law will be allowed to proceed without remedy and
14 Defendant will likely continue such illegal conduct. Because of the size of the
15 individual Class member's claims, few, if any, Class members could afford to
16 individually seek legal redress for the wrongs complained of herein.

17 23. Plaintiff has retained counsel experienced in handling class action
18 claims and claims involving violations of the Telephone Consumer Protection Act.

19 24. A class action is a superior method for the fair and efficient
20 adjudication of this controversy. Class-wide damages are essential to induce
21 Defendant to comply with federal law. The interest of Class members in
22 individually controlling the prosecution of separate claims against Defendant is
23 small because the maximum statutory damages in an individual action for violation
24 of privacy are minimal. Management of these claims is likely to present
25 significantly fewer difficulties than those presented in many class claims.

25. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

NEGLIGENCE VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

26. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

27. The foregoing acts and omissions of Defendant and its agents constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

28. As a result of Defendant's, and Defendant's agents', negligent violations of 47 U.S.C. § 227 et seq, Plaintiff and the Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

29. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

30. Plaintiff incorporates by reference the above paragraphs 1 through 25 inclusive, of this Complaint as though fully stated herein.

31. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and / or willful violations of the TCPA, including but not

1 limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et
2 seq.

3 32. As a result of Defendant's knowing and /or willful violations of 47
4 U.S.C. § 227 et seq., Plaintiff and the Class are entitled to treble damages, as
5 provided by statute, up to \$1,500.00, for each and every violation, pursuant to 47
6 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 33. Plaintiff and the Class are also entitled to and seek injunctive relief
8 prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

10 **Wherefore**, Plaintiff respectfully requests the Court grant Plaintiff and the Class
11 members the following relief against Defendant:

12 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**
13 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

14 34. As a result of Defendant's, and Defendant's agents', negligent
15 violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class
16 member \$500.00 in statutory damages, for each and every violation, pursuant to 47
17 U.S.C. § 227(b)(3)(B).

18 35. Pursuant to 47 U.S.C. § 227(b)(3)(A), Plaintiff seeks injunctive relief
19 prohibiting such conduct in the future.

20 36. Any other relief the Court may deem just and proper.

21 **SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL**
22 **VIOLATION OF THE TCPA, 47 U.S.C. § 227 ET SEQ.**

23 37. As a result of Defendant's, and Defendant's agents', willful and /or
24 knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each
25 Class member treble damages, as provided by statute, up to \$1,500.00 for each and
26 every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §
27 227(b)(3)(C).

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS LIDIA RIOTT, on behalf of herself and all others similarly situated		DEFENDANTS WORLDWIDE COMMERCE ASSOCIATES, LLC, a Nevada Corporation		
(b) County of Residence of First Listed Plaintiff <u>ALAMEDA</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>		County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i>		
(c) Attorneys (Firm Name, Address, and Telephone Number) Law Offices of Ronald A. Marron, APLC 3636 Fourth Ave., Suite 202, San Diego, CA 92103 (619) 696-9006		NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED		
		Attorneys (If Known) '13CV0147 AJB KSC		
II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i>		III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i>		
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	Citizen of This State	<input type="checkbox"/> PTIF 1 <input type="checkbox"/> DEF 1 Incorporated or Principal Place of Business In This State	
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>	Citizen of Another State	<input type="checkbox"/> PTIF 2 <input type="checkbox"/> DEF 2 Incorporated and Principal Place of Business In Another State	
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> PTIF 3 <input type="checkbox"/> DEF 3 Foreign Nation	
IV. NATURE OF SUIT <i>(Place an "X" in One Box Only)</i>				
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer w/Disabilities - Employment <input type="checkbox"/> 446 Amer w/Disabilities - Other <input type="checkbox"/> 448 Education	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
				FEDERAL TAX SUITS
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions
V. ORIGIN <i>(Place an "X" in One Box Only)</i>		<input checked="" type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation		
VI. CAUSE OF ACTION		Cite the U.S. Civil Statute under which you are filing <i>(Do not cite jurisdictional statutes unless diversity)</i> : 47 U.S.C. Section 227 - Telephone Consumer Protection Act ; 5 : 552		
		Brief description of cause:		
VII. REQUESTED IN COMPLAINT:		<input checked="" type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
VIII. RELATED CASE(S) IF ANY		(See instructions): JUDGE DOCKET NUMBER		
DATE 01/17/2013		SIGNATURE OF ATTORNEY OF RECORD <i>/s/Ronald A. Marron</i>		
FOR OFFICE USE ONLY				